IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 410 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

BHAGWANBHAI GUMANBHAI PATEL

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Revision Application No. 410 of 2004

MR YOGESH S LAKHANI for Petitioner No. 1-4

MR KT DAVE, APP for Respondent No. 1

MR BS PATEL, for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE C.K.BUCH

Date of decision: 29/06/2004

ORAL JUDGEMENT

1. Heard ld. counsel Mr. Yoghesh Lakhani for the petitioners, ld. APP Mr. KT Dave for respondent No.1

State and ld. counsel Mr.BS Patel for respondent No.2 original complainant. With the consent of the ld. counsel appearing for the parties, matter is taken up for final hearing today.

2. In view of the nature of submissions made today by ld. counsel Mr. Lakhani for the petitioners accused, ld. counsel Mr. KT Dave for the respondent no.1 State and ld. counsel Mr. BS Patel for the original complainant Bank, this Court is of the view that Revision Application requires to be allowed.

3. In compliance with the order passed by this Court, all the accused persons are present before the Court. It is submitted by ld. APP Mr. Dave that in view of the order passed by this Court on 26.6.2004 (Coram: A.L. Dave,J) in Cri.Revision Application No.3557/2004, the present Revision Application can be disposed of by a short order as the State is not interested in a reasoned order.

4. In view of the submissions made by ld. APP Mr. Dave, this Court is inclined to dispose of this Rev. Application by a short order. Having considered the submissions made and considering the order passed by ld. JMFC as well as ld. Sessions Judge concerned reversing the order passed by ld. JMFC, it is apparent that the impugned order passed by ld. Sessions Judge can not sustain in the eyes of law, because undisputedly, the day on which the application for remand was submitted, there was no opportunity for the accused persons to resist the same as they were on bail and ultimately the ld. Sessions Judge granted remand at the belated stage i.e. approximately after a period of 2 months. It has been submitted by ld. counsel Mr. BS Patel appearing for the respondent no.2original complainant Bank that Bank would not like to prosecute it's members in a given set of circumstances.

5. In view of above, Cri.Rev. Application is allowed. Impugned order passed by ld.Addl. Sessions Judge, Fast Track Court in Cri. Rev. Application No.69/2004 on 11.6.2004 and consequently, the order dated 4.4.2004 passed by ld. JMFC rejecting remand application is upheld and confirmed. It is further observed that to avoid technical complications, the petitioners accused shall executed fresh bail bonds before the trial Court within 15 days from today.

6. Rule is made absolute. Direct Service is permitted.

[C.K. BUCH, J]

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